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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/090,997	03/05/2002	Dieter Pauschinger	P01,0533	6789
26574	7590	08/23/2005	EXAMINER	
SCHIFF HARDIN, LLP PATENT DEPARTMENT 6600 SEARS TOWER CHICAGO, IL 60606-6473			SCHUBERT, KEVIN R	
			ART UNIT	PAPER NUMBER
			2137	

DATE MAILED: 08/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/090,997

Applicant(s)

PAUSCHINGER, DIETER

Examiner

Kevin Schubert

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 05 March 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-27 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

RS

### DETAILED ACTION

Claims 1-27 have been considered.

#### *Requirement for Restriction*

5 Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-14 are drawn to a method for transmitting a secure message, classified in class 726, subclass 26 (Information Security: Prevention of Unauthorized Use of Data Including Prevention of Piracy, Privacy Violations, or Unauthorized Data Modification). The claims are directed to a method for protecting usage data from unauthorized data medication by  
10 formulating the message with time and usage data and then sending the data with a check code to prevent unauthorized use or modification of the data.

II. Claims 15-27 are drawn to a counter apparatus with security features to protect the hardware and the information inside, classified in class 726, subclass 34 (Information Security: Protection of Hardware). The claims are directed to an apparatus which  
15 incorporates features to protect the hardware such as a "security housing containing a security module connected to said measured value generator, and at least one security detector which detects an attempt to breach said security module" (part c) and a "security module generating an electronic reaction, indicating an attempt to fraudulently manipulate said charge, dependent on at least one of a status of said security detector and said  
20 measured value" (part g).

The inventions are distinct each from each other because:

Inventions I and II are related as subcombinations disclosed as usable together in a single combination. In the instant case invention II has separate utility from invention I for at least  
25 the reason that invention II is an apparatus and not a method. Moreover, invention II can be used for the protection of hardware through security features such as a security housing and a security

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module generating an electronic reaction and invention I can be used to send messages in a secure fashion through check codes.

Because the inventions are distinct for the reasons given and have acquired a separate status in the art, restriction for examination purposes is proper.

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***Requirement for Election of Species***

In addition to the restriction requirement, invention I contains 4 patentably distinct species and invention II contains 6 patentably distinct species.

For invention I, the species differ based on two characteristics: (1) whether the forming of a time segment is periodically dependent or whether the forming of a time segment is dependent on an event related to the usage of a commodity and (2) whether the step of generating an event related to generation of a charge comprises identifying a change of the rate value or identifying a change in said usage value relative to a predetermined reference. If invention I is selected, one of the following species must also be selected:

- 10
- 15       a. forming the time segment is periodically dependent and the step of generating an event related to generation of a charge comprises identifying a change of the rate value (claims 7 and 10);
- b. forming the time segment is periodically dependent and the step of generating an event related to generation of a charge comprises identifying a change in said usage value to a predetermined reference (claims 7 and 11);
- 20       c. forming the time segment is dependent on an event related to the usage of a commodity and the step of generating an event related to generation of a charge comprises identifying a change of the rate value (claims 8 and 10);
- d. forming the time segment is dependent on an event related to the usage of a commodity and the step of generating an event related to generation of a charge comprises identifying a change in said
- 25       usage value to a predetermined reference (claims 8 and 11).

For invention II, the species differ based on two characteristics: (1) whether the A/D converter is a component of the measured value generator or whether the A/D converter is a component of the security

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module and (2) whether the communication device is an ISDN module adapted for connection to said recipient via a telephone network or whether the communication device is a power line module adapted for communication with said recipient via an energy supply network or whether the communication device is a blue tooth module adapted to wirelessly communicate with a further blue tooth module at the  
5 recipient. If invention II is selected, one of the following species must also be selected:

a. the A/D converter is a component of the measured value generator and the communication device is an ISDN module (claims 18 and 22);

b. the A/D converter is a component of the measured value generator and the communication device is a power line module (claims 18 and 23);

10 c. the A/D converter is a component of the measured value generator and the communication device is a blue tooth module (claims 18 and 24);

d. the A/D converter is a component of the security module and the communication device is an ISDN module (claims 19 and 22);

e. the A/D converter is a component of the security module and the communication device is a  
15 power line module (claims 19 and 23);

f. the A/D converter is a component of the security module and the communication device is a blue tooth module (claims 19 and 24);

20 Applicant is required under 35 U.S.C. 121 to elect a single disclosed species prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

25 Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing that species to be obvious variants or clearly admit on the record that this is the case. In either case, if the examiner finds one of the

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inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the invention.

A complete response to this action includes both an election of the invention to be examined and an election to one of its accompanying species.

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**Conclusion**

A shortened statutory period for response to this action is set to expire one month from the mail date of this letter. Failure to respond within the period for response will result in ABANDONMENT of the application (see 35 U.S.C. 133, M.P.E.P. 710.02, 710.02(b)).

10 Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Schubert whose telephone number is (571) 272-4239. The examiner can normally be reached on M-F 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571) 272-3868. The fax phone number for the organization where  
15 this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should  
20 you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

25 KS

  
EMMANUEL L. MOISE  
SUPERVISORY PATENT EXAMINER